



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**License for Diversion and Use of Water**

APPLICATION 26302  
Page 1 of 4

PERMIT 19900

LICENSE **13751**

**THIS IS TO CERTIFY, That**

Larkmead Vineyards, A Corporation  
1100 Larkmead Lane  
Calistoga, CA 94515

has made proof as of **June 19, 2007** (the date of inspection) to the satisfaction of the State Water Resources Control Board (State Water Board) of a right to the use of the waters of **Ritchie Creek** in **Napa County**

tributary to **Napa River thence San Pablo Bay**

for the purpose of **Irrigation and Fire Protection uses**

under Permit **19900** of the State Water Board; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the State Water Board, and the permit terms; that the priority of this right dates from **April 17, 1980**; and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **ten (10) acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year. The maximum withdrawal in any one year shall not exceed 10 acre-feet.**

The maximum instantaneous rate of diversion to offstream storage shall not exceed 33.6 gallons per minute.

The capacity of the reservoir covered by this license shall not exceed 10 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

**THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:**

By California Coordinate System of 1983, Zone 2, North 1,962,677 feet and East 6,412,133 feet, being within NW¼ of NW¼ of projected Section 15, T8N, R6W, MDB&M.

**THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:**

At reservoir located within SE¼ of SE¼ of projected Section 9, T8N, R6W, MDB&M.

**A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:**

Fire Protection use at reservoir within SE¼ of SE¼ of projected Section 15, T8N, R6W, MDB&M, and Irrigation as follows:

19 acres within NE¼ of SE¼ of projected Section 9, T8N, R6W, MDB&M  
9 acres within SE¼ of SE¼ of projected Section 9, T8N, R6W, MDB&M  
0.3 acre within NW¼ of NW¼ of projected Section 10, T8N, R6W, MDB&M  
26 acres within SW¼ of NW¼ of projected Section 10, T8N, R6W, MDB&M  
25 acres within SE¼ of NW¼ of projected Section 10, T8N, R6W, MDB&M  
11 acres within SW¼ of NE¼ of projected Section 10, T8N, R6W, MDB&M  
24 acres within NW¼ of SW¼ of projected Section 10, T8N, R6W, MDB&M  
11 acres within SW¼ of SW¼ of projected Section 10, T8N, R6W, MDB&M

125.3 acres total, as shown on map on file with the State Water Board.

This license shall not be construed as conferring upon the licensee the right of access to the point of diversion.

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Diversion of water from March 15 to May 15 is subject to control under a water distribution program administered by the State Water Board or by the State Department of Water Resources. Whenever such a program is in effect at the project location, the licensee shall comply with the following:

- A. Diversion after March 15 is contingent upon participation in the water distribution program by the licensee.
- B. Diversion after March 15 shall be solely to replenish water stored prior to March 15 unless otherwise authorized by the watermaster in charge of the distribution program.
- C. Prior to making diversions after March 15, the licensee shall install and maintain devices, satisfactory to the watermaster, which are capable of measuring the instantaneous rate of diversion and the total amount of water diverted during participation in the distribution program.
- D. Licensee's participation in any water distribution program required under the terms of this license shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.
- E. The water distribution program required under this license may be revised by the State Water Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court.

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This license is issued subject to all prior downstream rights, including any prior rights which may be held by Kletter Family Trust (A024292A). Diversion under this license in a manner which infringes on prior downstream rights may result in a hearing by the State Water Resources Control Board.

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*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.*

*Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.*

*Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.*

*If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.*

*This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

#### STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED BY  
JOHN O'HAGAN FOR:**

*Victoria A. Whitney, Chief  
Division of Water Rights*

Dated: JAN 29 2008